IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 4572 of 1996

Between:

1 Employees of the Visakhapatnam Steel Plant (Rashtriya Ispat Nigam Ltd)rep.by the Steel Plant Employees'Union a Trade Union registered under the Trade Unions Act,1926, Rep.by it's Seceretary, 308-A,Sector-V,Ukkunagaram, Visakahaptnam-530 032.A.P.
2 U.Venkateswarlu, s/o. Venkatasubbaiah, Occu: Technician, Visakhaptnam Steel Plant, Visakahpatnam -530 032.

..... PETITIONERS

AND

Visakhaptnam Steel Plant,(rashtriya Ispat Nigam Ltd.) rep.by it's Chairman-cum-Managing Director, Visakhaptnam Steel Plant, Visakhaptnam -530 032.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the respondent -management, peruse them and issue , A) A WRIT OF MANDAMUS or any other appropriate Writ, order or direction DECLARING that the Clause5.3 of the performance based Incentive Scheme for non-executive employees and Clause Nos7.2 & 6.5.2 of the Special Reward Scheme are illegal , arbitrary, unjust, void and Non-est and violative of Art.14,16,21,23 and 300-A of the Constitution of India. B) Issue a WRIT OF MANDAMUS any other appropriate writ order or direction striking down the Circular No.PL/CER/6-06/96 dt.19.2.1996(Annexure-B); C) Direct the contending Respondent to pay the Petitioners the costs of this W.P., and D) Grant such other relief or reliefs as this Hon'ble court may deem fit and proper in the facts and circumstances of the case to meet the ends of justice.

Counsel for the Petitioners : MR.G.S.RAO

Counsel for the Respondent : MR.V.RAVINDER RAO

The Court made the following :

ORDER:

This writ petition is filed by the Employees of the Visakhapatnam Steel Plant (Rashtriya Ispat Nigam Limited) represented by the Steel Plant Employees' Trade Union, challenging the various clauses under the Circular, dated 30-06-1994, and also the Circular, dated 19-02-1996, issued by the Visakhapatnam Steel Plant, Visakhapatnam.

The circular No.PL/CER/6-06/96, dated 19-02-1996, issued by the respondent-management reads as under:

> "Steel Plant Employees Union (CITU) has given a call for a one day strike on 23.02.1996 on issues which are general in nature.
>
> The notice of strike comes at a time when VSP is passing through a critical phase. In fact, the challenges before the VSP Collective now is not only to meet the APP targets but also to make up the shortfall incurred so far in the financial year. At this critical stage, any concerted action on the part of anybody will be counter-productive and act against the interests of the VSP Collective.
>
> It may also be mentioned here that participation in the strike will not only mean deduction of the wages for the day but would render employees liable for deduction of 25% of incentive earnings of the month as per relevant provision of the Incentive Scheme of the Company circulated vide No.PL/RR/7(25)/94, dated 08-12-1994. Further, such employees will lose the reward amount for the whole month under the Special Reward Scheme circulated vide Circular No.PL/NW/96, dated 31.01.1996, since such absence will be treated as unauthorized absence.
>
> In view of the above, all employees of VSP are requested to attend to their duties without fail on 23.02.1996 in the overall interest of the Plant. They may come on the night of 22.02.1996 itself and stay overnight to ensure their attendance on 23.02.1996."

A reading of the above Circular shows the intention of the management to implement the clauses under which the incentive and reward schemes were introduced. The clauses in question are only the exceptions, whereunder the management can deny the incentive and reward schemes to the employees.

A detailed counter-affidavit has been filed by the respondent-management denying

the allegations made by the petitioners. It is contended that a strike even for a single day in a plant, which is established at the cost of more than Rs.8,000/- crores, will cause a substantial loss to the national product. Therefore, resorting to strikes has to be viewed very seriously. It is relevant to mention that though the respondent issued the above said circular, it has not enforced the same against the employees', who resorted to strike on 23.02.1996. Consequently, no deduction of incentive earnings, loss of pay or reward amount was imposed. Learned counsel for the respondent submits that since the management has not imposed the detention of incentive benefits, loss of pay or reward amount on its employees though they have participated in one day strike, the question of examining clauses 5.3, 6.5.2 and 7.2 of the Circular does not arise in this writ petition and it is only an academic question.

I agree with the submission of the learned counsel for the respondent that once the circular was not implemented for the strike, which was undertaken by the Union on 23.02.1996 and no incentive benefits, loss of pay or reward amount was imposed on the workmen, it becomes only an academic question to be decided. However, it will not preclude the petitioners to challenge the provisions of the circulars whenever they feel aggrieved by the action of the management in future.

With the above observation, the writ petition is closed. No order as to costs.

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(C.V.RAMULU,J)

Dated:31-01-2005

GJ

To

1. The Chairman-cum-Managing Director, Visakhaptnam Steel Plant,(rashtriya Ispat Nigam Ltd.), Visakhaptnam -530 032.

2 Two C.D. copies.